

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

GLEN W. STAPLETON,)	
)	
Petitioner,)	Case No. 7:05-CV-00541
)	Case No. 2:01-CR-10026
)	
v.)	OPINION AND ORDER
)	
UNITED STATES OF AMERICA,)	By: James P. Jones
)	Chief United States District Judge
Respondent.)	

Petitioner, Glen W. Stapleton, a federal inmate proceeding pro se, has submitted to the court this Motion to Vacate, Set Aside, or Correct Sentence, pursuant to 28 U.S.C. § 2255. Upon review of the petition and court records, I find that Stapleton's § 2255 motion must be dismissed as successive.

Records indicate that Stapleton pled guilty in January 2002 to an indictment charging him with possession of a firearm by a convicted felon. The court sentenced him on June 18, 2002, to 180 months in prison. Stapleton did not appeal. In August 2004, he filed a § 2255 motion regarding the same conviction and/or sentence, *see* Case No. 7:04-CV-00459; the court dismissed this motion as untimely filed. Based on the foregoing, I conclude that petitioner's current § 2255 motion is a second or subsequent one. This court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth

Circuit that the claims in the motion meet certain criteria.¹ *See* § 2255, ¶8. As Stapleton offers no indication that he has obtained certification from the court of appeals to file a second or successive § 2255 motion, I must dismiss his current § 2255 motion without prejudice.

Accordingly, it is **ORDERED** that the Motion to Vacate, Set Aside or Correct Sentence, pursuant to 28 U.S.C. § 2255, is **FILED** and **DISMISSED** without prejudice as successive, and the action is stricken from the active docket of the court.

ENTER: September 2, 2005

/s/ JAMES P. JONES
Chief United States District Judge

¹ Petitioner is hereby advised of the procedure for obtaining certification from the United States Court of Appeals for the Fourth Circuit to have this court review a successive §2255 motion. Petitioner must submit a copy of successive § 2255 motion to the court of appeals, along with a motion requesting a three-judge panel certification that the district court may review the successive § 2255 motion. *See* 28 U.S.C. § 2244. A form and instructions for filing this motion are available at the following address: Office of the Clerk, United States Court of Appeals for the Fourth Circuit, 900 E. Main St., Richmond, VA 23219.